

Introduced by Senator Alarcon

January 5, 2005

An act to add Chapter 28.5 (commencing with Section 22928) to Division 8 of the Business and Professions Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 45, as introduced, Alarcon. Intermodal marine terminals.

Existing law imposes special regulations on various business activities but does not specifically regulate detention and per diem charges imposed by intermodal terminals on intermodal equipment used by motor carriers.

This bill would prohibit an intermodal marine equipment provider or marine terminal operator from imposing per diem or detention charges, as defined, or demurrage charges, on an intermodal motor carrier relative to transactions involving cargo shipped by intermodal transport under certain circumstances.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 28.5 (commencing with Section 22928)
2 is added to Division 8 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 28.5. INTERMODAL MARINE TERMINALS

6
7 22928. (a) The Legislature finds and declares that unilateral
8 termination, suspension, or restriction of equipment interchange

1 rights without prior judicial action is contrary to the public policy
2 of the State of California.

3 (b) An intermodal marine equipment provider or intermodal
4 marine terminal operator shall not impose per diem or detention
5 charges on an intermodal motor carrier relative to transactions
6 involving cargo shipped by intermodal transport under any of the
7 following circumstances:

8 (1) When the intermodal marine or terminal truck gate is
9 closed.

10 (2) When the intermodal marine terminal decides to divert
11 equipment without proper notification to the motor carrier.

12 (3) When the intermodal marine terminal is assessed a fine
13 pursuant to Section 40720 of the Health and Safety Code.

14 (4) When the intermodal marine terminal equipment is out of
15 compliance pursuant to Section 34505.9 of the Vehicle Code.

16 (c) A motor carrier shall not be charged for demurrage when a
17 loaded container is not available for pickup when the motor
18 carrier arrives at the intermodal marine terminal.

19 (d) As used in this chapter:

20 (1) “Per diem” or “detention” means a charge imposed by an
21 equipment provider for late returns of an empty or a loaded
22 intermodal container and chassis.

23 (2) “Closed” means not open or available to receive
24 equipment, or a change of location, without a seven-day advance
25 notice by the equipment provider’s facility to the motor carrier.

26 (3) “Intermodal marine terminal” means a marine terminal
27 location or facility that engages in discharging or receiving
28 equipment owned, operated, or controlled by an equipment
29 provider.